

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:

**DETERMINATION OF ROYALTY RATES
AND TERMS FOR MAKING AND
DISTRIBUTING PHONORECORDS
(*PHONORECORDS IV*)**

**Docket No. 21-CRB-0001-PR
(2023-2027)**

STIPULATION REGARDING INITIAL DISCOVERY

On August 3, 2021, the Copyright Royalty Judges (“Judges”) issued a Modified Case Schedule in the above-captioned proceeding. The schedule contemplates that participants to this proceeding may exchange preliminary disclosures, but that the timing and substance of such exchanges are subject to negotiation among the participants.

Pursuant to that directive, the Copyright Owners¹, Spotify USA Inc., Amazon.com Services LLC, Google LLC, Pandora Media, LLC, and Apple Inc. (collectively, the “Stipulating Parties”) have conferred and reached agreement on the exchange of certain documents (the “Disclosures”) prior to the submission of written direct testimony. In connection with that exchange, the Stipulating Parties, through their undersigned counsel, agree as follows²:

The Stipulating Parties recognize that this exchange is being conducted prior to the submission of written direct testimony. The Stipulating Parties agree that the exchange will be

¹ For purposes of this proceeding, the Copyright Owners include the National Music Publishers’ Association and the Nashville Songwriters Association International.

² Regarding this preliminary disclosure period, the Copyright Owners also proposed the exchange of initial disclosures (*i.e.*, a participant’s proposed rates and terms and anticipated witnesses in support of such participant’s written direct submission) consistent with prior practice among the participants in *Phonorecords III*. The exchange of initial disclosures was not agreed by the remaining Stipulating Parties, however.

governed by the Protective Order entered by the Copyright Royalty Judges in this proceeding on July 20, 2021. The Stipulating Parties further agree that the Disclosures may not be shared with any non-Stipulating Party in this proceeding, or with any non-Stipulating Party's outside counsel, independent consultants, or experts. Notwithstanding the foregoing, a Stipulating Party is free to share with a non-Stipulating Party any information or data that was already in the possession of the Stipulating Party prior to receipt of the Disclosures.

Nothing in this Stipulation shall prevent a Stipulating Party that receives Disclosures from sharing those Disclosures with its outside independent consultants or experts, consistent with section IV.B of the Protective Order. The Stipulating Parties, by and through their outside counsel, agree to inform any individual who receives Disclosures or information contained therein of the limitations imposed by this Stipulation, including a receiving individual's obligation to refrain from disseminating information to anyone other than outside counsel, independent consultants, or independent experts retained by a Stipulating Party.

Notwithstanding the foregoing, if documents contained in the Disclosures are requested by any participant during discovery pursuant to 17 U.S.C. § 803(b)(6)(C)(v) and 37 C.F.R. § 351.5(b), nothing in this Stipulation bars the production of those documents as appropriate at that time.

Respectfully submitted,

September 7, 2021

By: /s/ Donald S. Zakarin
Donald S. Zakarin (N.Y. Bar No. 1545383)
Frank P. Scibilia (N.Y. Bar No. 2762466)
Benjamin K. Semel (N.Y. Bar No. 2963445)
Joshua Weigensberg (N.Y. Bar No. 4894929)
Lauren B. Cooperman (N.Y. Bar No. 5252887)
PRYOR CASHMAN LLP
7 Times Square

New York, New York 10036-6569
Telephone: (212) 421-4100

*Counsel for the National Music Publishers'
Association, Inc. and the Nashville Songwriters
Association International*

September 7, 2021

By: /s/ Joseph R. Wetzel
Joseph R. Wetzel (Cal. Bar No. 238008)
Andrew M. Gass (Cal. Bar No. 259694)
LATHAM & WATKINS LLP
505 Montgomery Street
San Francisco, California 94111
Tel.: (415) 391-0600
Fax: (415) 395-8095

- and-

Allison L. Stillman (N.Y. Bar No. 4451381)
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10020
Tel.: (212) 906-1200
Fax: (212) 751-4864
alli.stillman@lw.com

– and –

Sarang (Sy) Damle (D.C. Bar No. 1619619)
LATHAM & WATKINS LLP
555 Eleventh Street, NW, Suite 1000 Washington, DC
20004
Tel.: (202) 637-2200
Fax: (202) 637-2201
sy.damle@lw.com

Counsel for Spotify USA Inc.

September 7, 2021

By: /s/ Joshua D. Branson
Joshua D. Branson (D.C. Bar No. 981623)
Scott H. Angstreich (D.C. Bar No. 471085)
Aaron M. Panner (D.C. Bar No. 453608)
Leslie V. Pope (D. C. Bar No. 1014920)

KELLOGG, HANSEN, TODD, FIGEL, &
FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Tel.: (202) 326-7900
Fax: (202) 326-7999

Counsel for Amazon.com Services LLC

September 7, 2021

By: /s/ Gary R. Greenstein
Gary R. Greenstein (DC Bar No. 455549)
WILSON SONSINI GOODRICH & ROSATI, P.C.
1700 K Street, N.W., 5th Floor
Washington, DC 20006
Tel. (202) 973-8849
Fax: (202) 973-8899
ggreenstein@wsgr.com

-and-

Victor H. Jih (Cal. Bar No. 186515)
Lisa D. Zang (Cal. Bar No. 294493)
Ryan Benyamin (Cal. Bar No. 322594)
Rebecca E. Davis (Cal. Bar No. 322765)
WILSON SONSINI GOODRICH & ROSATI, P.C.
633 West Fifth Street, Suite 1550
Los Angeles, CA 90071-2027
Tel.: (323) 210-2900
Fax: (866) 974-7329
vjih@wsgr.com
lzang@wsgr.com
rbenyamin@wsgr.com
becca.davis@wsgr.com

-and-

Maura L. Rees (Cal. Bar No. 191698)
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050
Tel.: (650) 493-9300
Fax: (866) 974-7329
mrees@wsgr.com

Counsel for Google LLC

September 7, 2021

By: /s/ Benjamin E. Marks
Benjamin E. Marks (N.Y. Bar No. 2912921)
Todd Larson (N.Y. Bar No. 4358438)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
Tel: (212) 310-8000
Fax: (212) 310-8007

Counsel for Pandora Media, LLC

September 7, 2021

By: /s/ Mary C. Mazzello
Mary C. Mazzello (N.Y. Bar No. 5022306)
Dale M. Cendali (N.Y. Bar No. 1969070)
Claudia Ray (N.Y. Bar No. 2576742)
KIRKLAND & ELLIS LLP
601 Lexington Avenue, 42nd Floor
New York, NY 10022
Tel. (212) 446-4800
Fax: (212) 446-4900
mary.mazzello@kirkland.com
dale.cendali@kirkland.com
claudia.ray@kirkland.com

Counsel for Apple Inc.

Proof of Delivery

I hereby certify that on Tuesday, September 07, 2021, I provided a true and correct copy of the Stipulation Regarding Initial Discovery to the following:

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Joint Record Company Participants, represented by Susan Chertkof, served via ESERVICE at susan.chertkof@riaa.com

Copyright Owners, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Zisk, Brian, represented by Brian Zisk, served via ESERVICE at brianzisk@gmail.com

Johnson, George, represented by George D Johnson, served via ESERVICE at george@georgejohnson.com

Signed: /s/ Joshua D Branson